

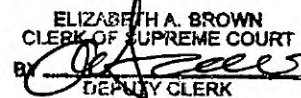
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GUILLERMO RENTERIA-NOVOA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84656-COA

FILED

APR 07 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Guillermo Renteria-Novoa appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on February 9, 2015, and supplemental pleadings. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

Renteria-Novoa argues the district court erred by denying his claims of ineffective assistance of trial counsel. To demonstrate ineffective assistance of trial counsel, a petitioner must show counsel's performance was deficient in that it fell below an objective standard of reasonableness and prejudice resulted in that there was a reasonable probability of a different outcome absent counsel's errors. *Strickland v. Washington*, 466 U.S. 668, 687-88 (1984); *Warden v. Lyons*, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984) (adopting the test in *Strickland*). Both components of the inquiry must be shown, *Strickland*, 466 U.S. at 687, and the petitioner must demonstrate the underlying facts by a preponderance of the evidence, *Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). We give deference to the district court's factual findings if supported by substantial evidence and not clearly erroneous but review the court's application of the

law to those facts de novo. *Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005).

First, Renteria-Novoa claimed that his counsel were ineffective for failing to challenge a juror who was biased in favor of the victim. During jury selection, the juror stated that she did not see why anybody in the victim's position would lie. Renteria-Novoa alleged the juror's statements meant she was unable to put her opinion aside and render a verdict based on the evidence. "A juror's opinions or views for or against a party do not, without more, establish bias. Rather, bias exists when the juror's views either prevent or substantially impair the juror's ability to apply the law and the instructions of the court in deciding the verdict." *Sanders v. Sears-Page*, 131 Nev. 500, 507, 354 P.3d 201, 206 (Ct. App. 2015) (citations omitted). When evaluating bias, this court looks at the juror's statements as a whole and not just the detached statements at issue. *See Thompson v. State*, 111 Nev. 439, 442, 894 P.2d 375, 376-77 (1995).

Looking at the juror's statements as a whole, Renteria-Novoa failed to demonstrate that the juror's opinions about the victim prevented her from being impartial. In addition to the challenged statements, the juror stated that Renteria-Novoa was not guilty as he sat there, he was not guilty because he had not been proven guilty yet, and she was unable to say how she would vote after the State presented all of their witnesses because she had not heard all the facts yet. The juror also stated there is a possibility that children in the victim's circumstance could lie. Accordingly, Renteria-Novoa failed to demonstrate counsel's performance fell below an objective standard of reasonableness. In addition to failing to demonstrate juror bias, Renteria-Novoa admitted to sexual activity with the minor victim. He thus failed to demonstrate a reasonable probability of a different

outcome at trial but for counsel's failure to challenge the juror. Therefore, we conclude the district court did not err by denying this claim.

Next, Renteria-Novoa claimed that his counsel were ineffective for failing to adequately "sanitize" the victim's pregnancy¹ in order to allow Renteria-Novoa to present his defense theory at trial. Prior to trial, counsel argued that, as a minor, the victim's pregnancy gave her a motive to lie about the allegations against Renteria-Novoa, and counsel sought to question her about her pregnancy. The district court denied the motion as violative of Nevada's rape-shield statute but allowed counsel the opportunity to pursue the defense theory in a manner that sanitized the situation, i.e., did not describe the victim as pregnant.

The district court found that counsel's decision to not sanitize the victim's pregnancy was strategic. The district court's determination is supported by substantial evidence. At the evidentiary hearing on Renteria-Novoa's petition, counsel testified that he felt presenting a sanitized version of the victim's pregnancy would confuse and lack impact with the jury. Renteria-Novoa failed to demonstrate extraordinary circumstances to warrant challenging counsel's decision. *See Lara v. State*, 120 Nev. 177, 180, 87 P.3d 528, 530 (2004) (stating counsel's strategic or tactical decisions are "virtually unchallengeable absent extraordinary circumstances" (internal quotation marks omitted)). In addition, Renteria-Novoa admitted to sexual activity with the victim. Accordingly, Renteria-Novoa failed to demonstrate counsel's performance fell below an objective standard of reasonableness or a reasonable probability of a different outcome at trial


¹Renteria-Novoa was never alleged to be the father.

but for counsel's alleged errors. Therefore, we conclude the district court did not err by denying this claim.


Finally, Renteria-Novoa claimed that his conviction should be reversed due to the cumulative effect of trial counsel's errors. Even assuming that any such errors may be cumulated, *see McConnell v. State*, 125 Nev. 243, 259 n.17, 212 P.3d 307, 318 n.17 (2009), Renteria-Novoa failed to demonstrate any errors to cumulate. Therefore, we conclude the district court did not err by denying this claim.

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Eric Johnson, District Judge
Jean J. Schwartz
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk